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Ontario

DECISION AND ORDER

EB-2023-0009

Canadian Niagara Power Inc.

Application for rates and other charges to be effective January 1, 2024

BEFORE: **David Sword**
Presiding Commissioner

Anthony Zlahtic
Commissioner

December 12, 2023

1. OVERVIEW

On August 17, 2023, Canadian Niagara Power Inc. (CNPI) filed an incentive rate-setting mechanism (IRM) application with the Ontario Energy Board, requesting changes to rates that it charges to distribute electricity to its customers, effective January 1, 2024.

In this Decision and Order, the OEB approves CNPI's request for: (i) a price cap adjustment to rates; (ii) changes to the Retail Transmission Service Rates and Low Voltage Service Rates; (iii) disposition of CNPI's Group 1 Deferral and Variance Accounts and Lost Revenue Adjustment Mechanism Variance Account (for 2021); and (iv) partial recovery of the Z-factor claim with a 17.5% reduction for the amount claimed for total capital cost.

CNPI is directed to file a draft rate order for the OEB's review in line with this Decision and Order.

2. CONTEXT AND PROCESS

CNPI filed its application on August 17, 2023 under section 78 of the *Ontario Energy Board Act, 1998* and in accordance with Chapter 3 of the OEB's *Filing Requirements for Incentive Rate-Setting Applications* (Filing Requirements). The application was based on the Price Cap Incentive Rate-setting (Price Cap IR) option, with a five-year term.

The Price Cap IR option is one of three incentive rate-setting mechanisms (IRM) approved by the OEB.[1] It involves the setting of rates through a cost of service application in the first year and mechanistic price cap adjustments which may be approved through IRM applications in each of the ensuing adjustment years.

The OEB follows a standardized and streamlined process for processing IRM applications filed under Price Cap IR. In each adjustment year of a Price Cap IR term, the OEB prepares a Rate Generator Model that includes, as a placeholder, information from the distributor's past proceedings and annual reporting requirements. A distributor will then review, complete, and include the model with its application, and may update the model during the proceeding to make any necessary corrections or to incorporate new rate-setting parameters as they become available.

CNPI serves approximately 30,000 mostly residential and commercial electricity customers in the Town of Fort Erie, City of Port Colborne and Town of Gananoque.

Notice of the application was issued on September 8, 2023. Vulnerable Energy Consumers Coalition (VECC) requested intervenor status. VECC also requested cost eligibility. The OEB approved VECC as intervenors. The OEB approved cost eligibility for VECC but only for certain aspects of CNPI's application.

The application was supported by pre-filed written evidence and a completed Rate Generator Model and as required during the proceeding, CNPI updated and clarified the evidence.

CNPI responded to interrogatories from OEB staff and VECC. Final submissions on the application were filed by OEB staff, VECC and CNPI.

[1] Each of these options is explained in the OEB's *Handbook for Utility Rate Applications*.

3. DECISION OUTLINE

Each of the following issues is addressed in this Decision, together with the OEB's findings.

- Annual Adjustment Mechanism
- Retail Transmission Service Rates
- Low Voltage Service Rates
- Group 1 Deferral and Variance Accounts
- Lost Revenue Adjustment Mechanism Variance Account
- Z-factor

Instructions for implementing CNPI's new rates and charges are set out in the final section of this Decision.

This Decision does not address rates and charges approved by the OEB in prior proceedings, such as specific service charges[2] and loss factors, which are out of the scope of an IRM proceeding and for which no further approvals are required to continue to include them on the distributor's Tariff of Rates and Charges.

[2] Certain service charges are subject to annual inflationary adjustments to be determined by the OEB through a generic order. For example, the OEB's Decision and Order in EB-2023-0193, September 26, 2023, established the adjustment for energy retailer service charges, effective January 1, 2024; and the OEB's Decision and Order in EB-2023-0194, September 26, 2023, established the 2024 Wireline Pole Attachment Charge, effective January 1, 2024.

4. ANNUAL ADJUSTMENT MECHANISM

CNPI has applied to change its rates, effective January 1, 2024, based on a mechanistic rate adjustment using the OEB-approved inflation minus X-factor formula applicable to IRM applications. The adjustment applies to distribution rates (fixed and variable) uniformly across all customer classes.[3]

The components of the Price Cap adjustment formula applicable to CNPI are set out in the table below. Inserting these components into the formula results in a 4.35% increase to CNPI's rates: **4.35% = 4.80% - (0.00% + 0.45%)**.

Table 4.1: Price Cap IR/Annual IR Adjustment Formula

Components		Amount
Inflation factor[4]		4.80%
Less: X-factor	Productivity factor[5]	0.00%
	Stretch factor (0.00% to 0.60%)[6]	0.45%

An inflation factor of 4.80% applies to all IRM applications for the 2024 rate year. The X-factor is the sum of the productivity factor and the stretch factor. It is a productivity offset that varies among different groupings of distributors. Subtracting the X-factor from inflation ensures that rates decline in real, constant-dollar terms, providing distributors with a tangible incentive to improve efficiency or else experience declining net income. The productivity component of the X-factor is based on industry conditions over a historical study period and applies to all IRM applications for the 2024 rate year. The stretch factor component of the X-factor is one of five stretch factor groupings established by the OEB, ranging from 0.00% to 0.60%. The stretch factor assigned to any distributor is based on the distributor's total cost performance as benchmarked against other distributors in Ontario. The stretch factor assigned to CNPI is 0.45%, resulting in a rate adjustment of 4.35%.

[3] The adjustment does not apply to the following components of delivery rates: rate riders, rate adders, low voltage service charges, retail transmission service rates, wholesale market service rate, smart metering entity charge, rural or remote electricity rate protection charge, standard supply service – administrative charge, transformation and primary metering allowances, loss factors, specific service charges other than the Wireline Pole Attachment charge, and the microFIT charge.
[4] OEB Letter, 2024 Inflation Parameters, October June 29, 2023
[5] Report of the Ontario Energy Board – "Rate Setting Parameters and Benchmarking under the Renewed Regulatory Framework for Ontario's Electricity Distributors" EB-2010-0379, December 4, 2013
[6] Report to the Ontario Energy Board – "Empirical Research in Support of Incentive Rate-Setting: 2022 Benchmarking Update", prepared by Pacific Economics Group LLC., July 2023

Findings

CNPI's request for a 4.35% rate adjustment is in accordance with the annually updated parameters set by the OEB.

The adjustment is approved, and CNPI's new rates shall be effective January 1, 2024.

5. RETAIL TRANSMISSION SERVICE RATES (RTSRs)

CNPI is partially embedded within Hydro One Network Inc.'s (Hydro One) distribution system. The OEB announced preliminary uniform transmission rates (UTRs) effective January 1, 2024.[7] The OEB also announced that an embedded distributor should update its RTSRs with Hydro One proposed host-RTSRs.[8]

CNPI updated its RTSRs based on the preliminary UTRs and Hydro One's proposed host-RTSRs.[9] The OEB sets the UTRs based on the approved revenue requirements for multiple transmitters. Preliminary UTRs are based on those revenue requirements that have already been approved for 2024. These preliminary UTRs are to be used for the setting of RTSRs to minimize the accumulation of variances in Retail Settlement Variance Accounts 1584 (Retail Transmission Network Charge) and 1586 (Retail Transmission Connection Charge). The cost consequences of any future adjustments to 2024 UTRs to reflect remaining approvals to a transmitter's revenue requirement will be tracked in these accounts and recovered over time.

To recover its cost of transmission services, CNPI requests approval to adjust the RTSRs that it charges its customers in accordance with preliminary UTRs and the proposed host-RTSRs for Hydro One.

Findings

CNPI's proposed adjustment to its RTSRs is approved.

The RTSRs have been adjusted based on the preliminary UTRs and the proposed host-RTSRs for Hydro One.

In the event that final UTRs and/or final host-RTSRs differ from the preliminary UTRs and/or proposed host-RTSRs, the resulting differences will be captured in Retail Settlement Variance Accounts 1584 (Retail Transmission Network Charge) and 1586 (Retail Transmission Connection Charge).

[7] EB-2023-0222, OEB Letter "2024 Preliminary Uniform Transmission Rates", September 28, 2023
[8] Ibid
[9] EB-2023-0030, Interrogatory Response #4

6. LOW VOLTAGE SERVICE RATE

As noted above, CNPI is partially embedded within Hydro One's distribution system.

Low voltage transactions, which are not part of the wholesale electricity market, are charged to a distributor by its host distributor. To recover the cost of its low voltage transactions, CNPI requests approval to adjust its Low Voltage Service Rates (LV Service Rates) that it charges its customers as part of this IRM application. The adjusted LV Service Rates are based on the current OEB-approved host distributor sub-transmission rates and the most recent demand data for low voltage transactions.[10]

Findings

CNPI's proposed adjustment to its LV Service Rates is approved. The LV Service Rates have been updated based on the current OEB-approved host distributor's sub-transmission rates. In the event that the OEB updates the approved distributor sub-transmission rates during CNPI's 2024 rate year, any resulting differences are to be captured in Account 1550 LV Variance Account.

[10] EB-2023-0009, 2024 Rate Generator Model

7. GROUP 1 DEFERRAL AND VARIANCE ACCOUNTS

In each year of an IRM term, the OEB will review a distributor's Group 1 deferral and variance accounts to determine whether those balances should be disposed of. OEB policy states that Group 1 account balances should be disposed of if they exceed, on a net basis (as a debit or credit), a pre-set disposition threshold of $0.001 per kWh, unless a distributor justifies why balances should not be disposed of.[11] If the net balance does not exceed the threshold, a distributor may still request disposition.[12]

The 2022 year-end net balance for CNPI's Group 1 accounts eligible for disposition, including interest projected to December 31, 2023, is a debit of $1,271,136 and pertains to variances accumulated during the 2022 calendar year. This amount represents a total claim of $0.0026 per kWh, which exceeds the disposition threshold. CNPI has requested disposition of this amount over a one year period.

Included in the Group 1 accounts are certain variances related to costs that are paid for by a distributor's customers on different bases, depending on their classification. Namely, "Class A" customers, who participate in the Industrial Conservation Initiative, pay for Global Adjustment (GA) charges based on their contribution to the five highest Ontario demand peaks over a 12-month period. "Class B" customers pay for GA charges based on their monthly consumption, either as a standalone charge or embedded in the Regulated Price Plan (RPP).[13] A similar mechanism applies to Class A and Class B customers for Capacity Based Recovery (CBR) charges.[14] The balance in the GA variance account is attributable to non-RPP Class B customers and is disposed of through a separate rate rider. The balance in the CBR Class B variance account is attributable to all Class B customers.

CNPI had one or more Class A customers during the period in which variances accumulated so it has applied to have the balance of the CBR Class B variance account disposed of through a separate rate rider for Class B customers to ensure proper allocation between Class A and Class B customers.

[11] Report of the OEB – "Electricity Distributors' Deferral and Variance Account Review Initiative" (EDDVAR), EB-2008-0046, July 31, 2009
[12] OEB letter, "Update to the Electricity Distributors' Deferral and Variance Account Review ("EDDVAR Report"), released July 2009 (EB-2008-0046)", July 25, 2014
[13] For additional details on the Global Adjustment charge, refer to the Independent Electricity System Operator (IESO)'s website.
[14] All Class B customers (RPP and non-RPP) pay the CBR as a separate charge based on their monthly consumption. For additional details on the CBR for Class A customers, refer to the IESO's website.

In its submission, OEB staff supported CNPI's request to dispose of its December 31, 2022 Group 1 DVAs on a final basis. OEB staff noted that CNPI had made a few principal adjustments in its GA Analysis Workform besides the typical adjustments in the workform. Specifically, OEB staff referenced CNPI's explanation that a $128,000 principal adjustment to Account 1589 related to the portion of a GS>50kW customer billing correction which was billed in 2022. This principal adjustment had been updated to a reconciling item after CNPI's review of the GA Analysis Workform instructions. OEB staff submitted that it had no issue with the change in CNPI's approach regarding treatment of this item as a billing correction versus a principal adjustment. In reply, CNPI submitted that the OEB should approve the final disposition of Group 1 DVA Balances as at December 31, 2022, with forecasted interest to December 31, 2023.

Findings

The balances proposed for disposition reconcile with the amounts reported as part of the OEB's *Electricity Reporting and Record-Keeping Requirements.*

The OEB approves the disposition of a debit balance of $1,271,136 as of December 31, 2022, including interest projected to December 31, 2023, for Group 1 accounts on final basis.

Table 6.1 identifies the principal and interest amounts, which the OEB approves for disposition.

Table 7.1: Group 1 Deferral and Variance Account Balances

Account Name	Account Number	Principal Balance ($) A	Interest Balance ($) B	Total Claim ($) C=A+B
LV Variance Account	1550	48,314	3,046	51,360
Smart Metering Entity Charge Variance Account	1551	(79,381)	(4,557)	(95,675)
RSVA - Wholesale Market Service Charge	1580	922,075	62,248	1,174,491
Variance WMS - Sub-account CBR Class B	1580	(48,185)	(3,601)	(51,786)

RSVA - Retail Transmission Network Charge	1584	202,735	15,246	217,981
RSVA - Retail Transmission Connection Charge	1586	4,903	268	5,171
RSVA - Power	1588	(62,314)	15,512	(46,802)
RSVA - Global Adjustment	1589	131,258	2,198	133,456
Disposition and Recovery/Refund of Regulatory Balances (2020)	1595	172	61,199	61,371
Total for Group 1 accounts		1,119,577	151,559	1,271,136

The balance of each of the Group 1 accounts approved for disposition shall be transferred to the applicable principal and interest carrying charge sub-accounts of Account 1595. Such transfer shall be pursuant to the requirements specified in the *Accounting Procedures Handbook for Electricity Distributors.*[15] The date of the transfer must be the same as the effective date for the associated rates, which is generally the start of the rate year.

The OEB approves these balances to be disposed of through final rate riders, charges, or payments, as calculated in the Rate Generator Model. The final rate riders, charges, and payments, as applicable, will be in effect over a one-year period from January 1, 2024 to December 31, 2024.[16]

[15] Article 220, Account Descriptions, Accounting Procedures Handbook for Electricity Distributors, effective January 1, 2012
[16] 2024 IRM Rate Generator Model Tab 6.1 GA, Tab 6.1a GA Allocation, Tab 6.2 CBR B, Tab 6.2a CBR B_Allocation and Tab 7 Calculation of Def-Var RR

8. LOST REVENUE ADJUSTMENT MECHANISM VARIANCE ACCOUNT

The OEB has historically used a Lost Revenue Adjustment Mechanism Variance Account (LRAMVA) to capture implications for a distributor's revenues which arise from differences between actual and forecast conservation and demand management (CDM) savings included in its last OEB-approved load forecast. The use of the LRAMVA is no longer the default approach for CDM activities.[17]

Distributors delivered CDM programs to their customers through the Conservation First Framework (CFF) that began on January 1, 2015 until March 20, 2019, when the CFF was revoked.[18]

Distributors filing an application for 2024 rates are required to seek disposition of all outstanding LRAMVA balances related to program savings for CFF programs or other conservation programs they delivered unless they do not have complete information on eligible program savings.[19]

CNPI has applied to dispose of its LRAMVA debit balance of $46,723. The balance consists of lost revenues in 2021 from CDM programs delivered during the period from 2016 to 2019. In accordance with direction provided by the OEB in its 2023 IRM Decision and Rate Order,[20] CNPI confirmed that it did not include the associated LRAMVA carrying charges. CNPI is requesting disposition over 12 months. Should the OEB approve CNPI's request, the LRAMVA will have a balance of zero.

The actual conservation savings claimed by CNPI under the CFF were validated with reports from the IESO, project level savings files, or both.[21]

Actual conservation savings incorporate the effects of CNPI's forecasted conservation savings of 11,752,000 kWh included in its 2016 OEB-approved load forecast.[22]

CNPI did not apply for approval of any LRAM-eligible amounts on a prospective basis, arising from persisting savings from completed CDM programs.

[17] Conservation and Demand Management Guidelines for Electricity Distributors, December 20, 2021, chapter 8
[18] On March 20, 2019 the Minister of Energy, Northern Development and Mines issued separate Directives to the OEB and the IESO.
[19] Chapter 3 Filing Requirements, Section 3.2.7.1
[20] EB-2022-0019, Decision and Order, December 8, 2022
[21] Ibid
[22] EB-2016-0061, Decision and Order, March 9, 2017

CNPI does not have any rate-funded CDM Programs or Local Initiatives Program activities. As such, the balance being requested for disposition relates to Conservation First Framework (CFF) program persistence into 2021. CNPI calculated a total disposition of $46,723. As CNPI rebased its rates for 2022, CNPI understands, in accordance with section 3.2.7.1, that no further persistence is expected, and no prospective disposition into future years is being requested.

CNPI last disposed of LRAMVA balances until the end of 2020. Effective January 1, 2022, new rates came into effect which reflect an updated load forecast that incorporates updated CDM assumptions, presumably inclusive of expected CFF Impacts. Accordingly, the only outstanding clearance in CNPI's LRAMVA relates to the year 2021.

OEB staff supported CNPI's request to dispose of its 2021 LRAMVA debit balance of $46,723 on a final basis, noting that the OEB had previously approved CNPI's request, during last year's IRM application, to keep the LRAMVA account open for entries for 2021 so that they could be considered for disposition as part of this application. OEB staff further submitted that the LRAMVA balance is reasonable and the disposition request is consistent with CDM Guidelines. OEB staff submitted that no further entries to the LRAMVA be permitted at this time, but that the LRAMVA not be discontinued, in the event that CNPI requests the use of the LRAMVA for a CDM activity in a future application, which the OEB can consider on a case-by-case basis.

Findings

The OEB finds that CNPI's LRAMVA balance has been calculated in accordance with the OEB's CDM-related guidelines and updated LRAMVA policy. The OEB approves the disposition of CNPI's LRAMVA debit balance of $46,723 over the period of 12 months, as set out in Table 8.1 below.

The OEB agrees with OEB staff's submission that no further entries to the LRAMVA be permitted at this time, but that the LRAMVA not be discontinued, in the event that CNPI requests the use of the LRAMVA for a CDM activity in a future application, which the OEB can consider on a case-by-case basis.

Table 8.1 LRAMVA Balance for Disposition

Account Name	Account Number	Actual CDM Savings ($) A	Forecasted CDM Savings ($) B	Carrying Charges ($) C	Total Claim ($) D=(A-B)+C
LRAMVA	1568	293,593	246,870	0	46,723

9. Z-FACTOR

On December 23, 2022, CNPI's service territory experienced a severe weather event. CNPI recorded more than 32,000 customer interruptions, representing 106% of CNPI's customer base. This indicates that many customers in Fort Erie and Port Colborne would have experienced more than one interruption during the storm and restoration. CNPI continued its efforts to repair and replace damaged assets into 2023, after the critical repairs and customer restoration was completed.

For Z-factor treatment, the OEB's filing requirements[23] state that a distributor must submit evidence to substantiate that the costs incurred meet the following eligibility criteria of causation, materiality, and prudence:

i. Causation – Amounts should be directly related to the Z-factor event. The amount must be clearly outside of the base upon which rates were derived.
ii. Materiality – The amounts must exceed the Board-defined materiality threshold and have a significant influence on the operation of the distributor; otherwise, they should be expensed in the normal course and addressed through organizational productivity improvements.
iii. Prudence – The amounts must have been prudently incurred. This means that the distributor's decision to incur the amounts must represent the most cost-effective option (not necessarily least initial cost) for ratepayers.

The filing requirements further indicate that the OEB may review and prospectively adjust the amounts for which Z-factor treatment is claimed.[24] Moreover, a distributor must provide a clear demonstration that the management of the distributor could not have been able to plan and budget for the event and that the harm caused by extraordinary events is genuinely incremental to their experience or reasonable expectations."[25]

Causation

CNPI stated that it incurred $1,930,136 of costs related to the December 23, 2022 storm and subsequent restoration efforts. The total cost includes $955,000 in capital and $975,000 in operating costs, as further elaborated in table below. The capital costs are primarily related to work required to replace broken poles and conduct other work which would normally be capitalized under CNPI's typical capitalization policy.

[23] Chapter 3 Filing Requirements for Electricity Distribution Rate Applications- 2022 Edition for 2023 Rate Applications – Chapter 3 Incentive Rate-Setting Applications May 24, 2022, p. 22, section 3.2.8.1
[24] Ibid
[25] Ibid

Table 9.1: Breakdown of Capital and OM&A Cost

Cost Category	Capital Cost ($)	O&M Cost (Regular-Time Labour) ($)	O&M Cost (Recorded in Account 1572) ($)	Total Cost ($)
CNPI Labour (Regular)	88,548	78,778	-	**167,326**
CNPI Labour (Overtime)	48,357	-	258,887	**307,244**
Materials	144,632	-	-	**144,632**
LDC Mutual Aid Costs	61,932	4,128	174,729	**240,789**
Contracted Services-Line Services	549,753	-	271,527	**821,280**
Contracted Services-Excavation and Tree Removal	59,029	-	131,839	**190,868**
Other	2,865	-	55,132	**57,997**
Total	**955,116**	**82,906**	**892,114**	**1,930,136**

CNPI's total proposed Z-factor claim is $984,114, which comprised of OM&A, Capital expenditure revenue requirement, and interest elements, as further outlined in Table 9.2 below. CNPI requested a disposition period of 12 months from January 1, 2024 to December 31, 2024 through fixed monthly rate riders.

Table 9.2: Total Z-factor Claim

Category	Amount ($)
OM&A Compnent Principal Balance	892,114
2023 Interest Forecast	44,000
Capital Expenditures Revenue Requirement	48,000
Total Z-factor Claim	**984,114**

Incremental Capital Cost

In its response to an OEB staff interrogatory,[26] CNPI stated that it does not budget for storm related capital costs, so the costs that have been incurred are incremental with the exception of staff's regular time which has not been included in this Z-factor claim as mentioned above.

The Table 9.3 below shows breakdown of the total incremental capital cost of $866,568 into different asset categories. CNPI used this total incremental capital cost to calculate the revenue requirement portion of $48,000 for the Z-factor claim. CNPI explained that it amortizes all replaced assets over a 45 year period.[27] This is consistent with the useful lives presented in Appendix 2-BB of CNPI's Chapter 2 Appendices filed in its 2022 Cost of Service application.[28]

Table 9.3: Details of the Replaced Assets[29]

Asset/Equipment	Quantity	Repaired/Replaced	Estimated Net Asset Value $	Useful Life (Years)
Poles	43	Replaced	747,990	45
Overhead Conductors & Devices (OH C&D) - Primary	1,216	Replaced	87,814	45
OH C&D - Secondary	2,944	Replaced	30,764	45
		Total	**866,568**	

In its submission, OEB staff noted that assets reaching their end of service life (and already due for replacement) would have higher probabilities of failing as a result of the storm or any adverse event. For example, poles with end-of-life conditions might need to be replaced due to a strong local wind gust that would not qualify for Z-factor treatment.

OEB staff further noted that in the pole assessment schedule presented as part of CNPI's 2022 Cost of Service application[30], 33.8% of the poles were rated as poor to very poor condition and were budgeted for replacement in CNPI's base rate. Based on

[26] OEB Staff IR- 9c, p.16
[27] IRR- 9C, 2024 IRM Application
[28] EB-2021-0011, Cost of Service Application, Appendix 2-BB Service Life
[29] OEB Staff IR-8b, p. 14
[30] EB-2021-0011, CNPI Exhibit 2, Summary of ACA Results, p. 110

the pole assessment schedule, OEB staff submitted that recovery of 66.2% of the cost associated with poles replaced due to the windstorm would be appropriate, and in lieu of better information, apply the same percentage of 66.2% to the OH C&D (primary & secondary) costs. OEB staff submitted that this approach would be similar to what was done in Elexicon Energy's 2023 Z-factor application,[31] where the OEB did not allow cost recovery for certain poles that were expected to be replaced in the near term as outlined in Elexicon Energy's 2021 Distribution System Plan.

In its submission, OEB staff also invited CNPI to disclose more recent information pertaining to the conditions of poles and OH C&D for arriving at a reasonable valuation of the incremental pole replacement cost for recovery if CNPI disagrees with OEB proposed method.

In its reply to the OEB's submission CNPI noted that in the OEB's Decision in the Elexicon Energy's case, the OEB required a 12% reduction to the capital claim submitted by Elexicon Energy, representing the poles from the Z-factor identified as Poor and Fair-Poor condition.[32] The OEB cited prior evidence that Elexicon Energy replaces "Poor" and "Fair-Poor" poles within 1-2 years.[33]

In its reply submission, CNPI disagreed with OEB staff's interpretation of the CNPI Asset Condition Assessment (ACA) results that indicated 33.8% of poles were budgeted for replacement in CNPI's base rates, based on the results of CNPI's last ACA. CNPI noted that the poles listed in the ACA as "very poor" would be slated for replacement within 1-2 years. The poles listed under "poor condition" would only be replaced if a Voltage Conversion (VC) or Line Rebuild project is slated in the area of the poor condition pole. CNPI further noted that 33.4% of the poles were rated as poor and only 0.4%[34] were rated as very poor in the ACA from CNPI's 2022 Cost of Service application. In its reply submission, CNPI emphasized that it did not plan to replace 33.8% of its poles within the current DSP period and claimed that this would be a very costly and disruptive pace of replacement.

Further, CNPI submitted that seven of the 40 poles that failed during the storm would have been replaced within the current DSP period (2022-2026). All seven poles would have been replaced as a result of a VC project. Three of the seven poles would be replaced due to asset condition and the remaining four due to updated standards for the

[31] Decision and Order, EB-2022-0317, Elexicon Energy Inc., Z-factor Application for Rates and Other Charges to be Effective July 1, 2023, p. 9
[32] CNPI notes that the capital portion of the Z-factor claim in the Elexicon case was different than CNPI's, as Elexicon proposed a Capital Z-factor Rate Rider effective until its next rebasing. Per Decision in EB-2022-0317, p5. CNPI is requesting only one year's capital recovery.
[33] EB-2022-0317, OEB Decision and Order, June 15, 2023, p. 12
[34] EB-2021-0011- Exhibit 2, June 30, 2021, p.11

VC project (for example taller pole is required). CNPI claimed that none of the poles retired in the Z-factor were identified as “very poor” condition, requiring immediate replacement within 1-2 years. It further clarified that only 40 poles were retired due to the storm and three new poles were added during the restoration efforts. CNPI suggested if the OEB requires an adjustment to the capital component of the claim that a reduction of 17.5% (7/40) would be more appropriate than the 33.8% reduction proposed by OEB staff.

Incremental OM&A Cost

CNPI claimed total OM&A costs of $892,114 related to the storm event, which are recorded in Account 1572 (Extraordinary Events Costs). The cost components, underpinning the total OM&A costs of the Z-factor claim, include labour (overtime), Local Distribution Companies (LDC) mutual aid costs,[35] contracted service (line services and excavation & tree removal) and other OM&A costs.

CNPI claimed OM&A costs associated with CNPI’s labour (overtime) of $258,887. CNPI stated that the storm response occurred during the statutory holidays. As a result, the immediate response work attracted overtime premiums (the storm related restoration work was also done during December 25th and 26th statutory holidays).

The OM&A portion of the LDC mutual aid cost is $174,729 which is associated with the restoration work provided by various mutual aid responders. These mutual aid services were covered under the Ontario Mutual Assistance Plan (OSCOMAP). CNPI stated it does not have an agreement with Niagara-on-the-Lake Hydro, however, invoicing was completed on terms consistent with those from the OSCOMAP.[36]

CNPI identified contracted services costs as one of the major components for the OM&A costs which includes both line services and excavation & tree removal services. The total contracted services cost under OM&A included in the Z-factor claim is $403,366.[37]

CNPI indicated that the other category under OM&A cost recorded in Account 1572 is a combination of meals and food items purchased as well as the hotel accommodations for crews along with some other miscellaneous costs.

Based on the evidence CNPI provided for the OM&A related Z-factor claim, OEB staff submitted that the costs incurred because of the storm event qualify for the Z-factor treatment in accordance with OEB’s policy and practice. OEB staff acknowledged that

[35] EB-2023-0009, 2024 IRM Application, August 17, 2023, p.141
[36] CNPI response to Staff-10, dated October 27, 2023
[37] CNPI response to Staff-9, dated October 27, 2023

the overtime premium was paid because the storm restoration period included statutory holidays.[38]

VECC submitted that the costs included in the Z-factor claim are incremental costs and that CNPI demonstrated that the Z-factor costs were directly related to the storm and outside of the base upon which CNPI's rates were set. VECC noted that CNPI should consider budgeting additional O&M and Capital dollars to deal with storm response.[39] In conclusion, VECC submitted that the Z-factor claim meets the causation criterion.

Findings

The OEB approves a Z-factor claim based on a 17.5% reduction to CNPI's proposed $866,568 incremental capital and the as proposed $892,114 incremental OM&A.

The OEB agrees with OEB staff's submission that assets reaching the end of service life and due replacement should not qualify for Z-factor treatment.

OEB staff in its submission proposed a 66.2% recovery of CNPI's claimed incremental capital amount based on CNPI's ACA from its 2022 Cost of Service application that identified that 33.8% of the poles were in poor to very poor condition and the assumption that this percentage of poles were already budgeted for replacement in CNPI's base rates.

In addition, OEB staff submitted that a 66.2% recovery of the OH C&D Primary and Secondary be applied. OEB staff's recommended reduction in recovery was also a result of CNPI's incomplete response to an OEB staff interrogatory[40] that asked CNPI to provide additional information to illustrate that the Z-factor costs are incremental to costs that underpin rates as well as costs budgeted for storm restoration costs.

CNPI in its reply submission clarified its response to an OEB staff interrogatory[41] that 7 of the 40 poles (or 17.5%) and associated primary and secondary OH C&D were identified as due for replacement in the 2022 to 2026 Distribution System Plan.

Notwithstanding whether the 7 poles are budgeted for replacement in base rates or in CNPI's DSP, the OEB finds that assets reaching the end of service due to condition or obsolescence as part of a Voltage Conversion project should not qualify for Z-factor treatment.

[38] OEB Staff Submission, November 17, 2023, p. 11
[39] VECC Submission, November 10, 2023, p. 3
[40] OEB Staff IR- 9c, p. 16
[41] ibid

Accordingly, the OEB finds it appropriate to reduce the capital component of the Z-factor claim by 17.5%.

The OEB agrees with CNPI's evidence and OEB staff's submission that the OM&A related Z-factor claim of $892,114 is appropriate and qualifies for Z-factor treatment.

The OEB further agrees that the approved Z-factor OM&A amount be properly recorded in Account 1572 (Extraordinary Events Costs) in accordance with the OEB's policy and practice.

CNPI in its draft rate order will need to recalculate the interest and revenue requirement based on the above approved Z-factor capital and OM&A amounts.

Materiality

In its pre-filed evidence, CNPI stated that it has an approved revenue requirement of $23,184,975 from its 2022 Cost of Service proceeding. In addition, CNPI further explained that the OEB-defined materiality threshold for a Z-factor claim is 0.5% for a distributor with a distribution revenue requirement of between $10 million and $200 million.[42] CNPI's materiality threshold is $115,925. CNPI's and Z-factor claim of $984,114 is above CNPI's threshold and considered material.

The OEB staff and VECC submitted that CNPI's Z-factor request of $984,114 exceeds the materiality threshold and would remain that way even if there are reductions in the incremental capital costs. CNPI agreed with the submissions of the OEB staff and VECC, that the amount claimed exceeds the materiality threshold.

Findings

The CNPI cost claim of $984,114 is material and exceeds the calculated materiality threshold of $115,925.

Prudence

In its application,[43] CNPI stated that it acted in the interests of its customers to restore service as quickly as possible and deployed all available internal resources to the restoration effort. CNPI also mentioned that it has a Business Continuity Plan[44] that is periodically updated and reviewed at the management level. In reply to an OEB staff's interrogatory, [45] CNPI discussed that its emergency response planning is intended to

[42] Manager's Summary p. 34
[43] EB-2023-0009, 2024 IRM Application, August 17, p. 34
[44] Electricity Distribution Rates Application, Attachment "F", Pg. 138
[45] OEB Staff IR-14b, p. 32

assist CNPI in responding efficiently and safely to severe weather conditions. CNPI further clarified that its emergency response planning does not assist CNPI's system to resist severe weather. It noted that the frequency, duration, and severity of inclement weather is the key and core driver of the response effort required and the associated financial impact of weather-related events which is why a review of recent history does not permit a meaningful comparison of one another due to the key drivers mentioned above.

VECC submitted that CNPI has demonstrated that it has prepared for extreme weather events and acted promptly to restore power. VECC stated that the storm claim amounts were prudently incurred. VECC noted no issue with CNPI's delivery of its vegetation Management Program and resulting storm mitigation impacts.

OEB staff also acknowledged that CNPI called upon available internal and external resources to address the storm outages. OEB staff referenced CNPI's existing Business Continuity Plan and Mutual Aid Agreements. OEB staff also recognized that CNPI acted promptly and restored power within a reasonable period. Based on the evidence CNPI provided in its application and interrogatory responses, OEB staff submitted that CNPI has met the criteria of prudence.

CNPI agreed with the submissions of OEB staff and VECC that the criterion of Prudence has been met. In its reply to the submission, CNPI mentioned that it has demonstrated that it has prepared for extreme weather events by having mutual aid arrangements and emergency plans and procedures in place. During the event, CNPI managed its internal and external available resources responsibly to restore power quickly in a safe and cost-effective manner. CNPI also submitted that it takes appropriate measures to mitigate the risks of extreme weather outages.

Findings

The criterion of prudence is met as CNPI's restoration efforts deployed all available internal resources and engaged external contractors and other LDCs through mutual aid agreements.[46] CNPI also secured third-party utility-based contractors. The restoration efforts were made in the most cost-effective manner which is consistent to CNPI's Business Continuity Plan.

[46] Attachment F: MED Report p. 5: Welland Hydro, Niagara Peninsula Energy, NOTL Hydro, Burlington Hydro, Cornwall Electric

Cost Allocation and Rate Design

CNPI proposed to recover its total Z-factor claim through fixed rate riders over a 12-month period from January 1, 2024 to December 31, 2024.[47] In its pre-filed evidence, CNPI noted that the proposed cost allocation (allocation based on the most recent cost of service revenue requirement- excluding Standby classification) is consistent with the approach proposed by CNPI and approved by the OEB for the Z-factor claim in its 2023 IRM Application. CNPI stated that its proposed rate design, which is based on monthly per-customer allocations based on the most recently reported customer numbers by class, is also consistent with the approach proposed and approved in its 2023 IRM Application.[48]

Findings

The OEB approves CNPI's recovery through rate riders over a 12-month period from January 1, 2024 to December 31, 2024 allocated across all rate classes (excluding Standby Power Service Classification) and on the basis of its OEB-approved distribution revenue requirement. The OEB finds this approach to be reasonable.

[47] EB-2023-0009, 2024 IRM Application, p. 34
[48] EB-2022-0019, Decision and Rate Order, December 8, 2022

10. IMPLEMENTATION

CNPI shall file a draft rate order in accordance with this Decision and Order. The draft rate order should also show the impact of any required adjustments ordered by the OEB, including the approved 2024 inflation rate,[49] Regulated Price Plan (RPP) pricing,[50] preliminary UTRs[51] and Proposed host-RTSRs,[52] current regulatory charges (Wholesale Market Service Charge and Rural or Remote Electricity Rate Protection charge), Smart Meter Entity Charge[53] and microFit charge.[54]

The OEB will review the draft rate order and issue a final rate order.

[49] OEB Letter, 2024 Inflation Parameters, issued June 29, 2023
[50] Regulated Price Plan Price Report
[51] EB-2023-0222, OEB Letter "2024 Preliminary Uniform Transmission Rates, issued September 28, 2023
[52] EB-2023-0030, Interrogatory Response #4
[53] EB-2022-0137, Decision and Order, September 8, 2022
[54] OEB Letter, "Review of Fixed Monthly Charge for microFIT Generator Service Classification", issued November 29, 2023

11. ORDER

THE ONTARIO ENERGY BOARD ORDERS THAT:

1. Canadian Niagara Power Inc. shall file with the OEB and forward to VECC a draft Rate Order with a proposed Tariff of Rates and Charges attached that reflects the OEB's findings in this Decision and Order, no later than December 19, 2023. Canadian Niagara Power Inc. shall also include customer rate impacts and detailed information in support of the calculation of final rates in the draft Rate Order.

2. VECC and OEB staff shall file any comments on the draft Rate Order with the OEB, and forward to Canadian Power Niagara Inc., no later than January 8, 2024.

3. Canadian Niagara Power Inc. shall file with the OEB and forward to VECC, responses to any comments on its draft Rate Order no later than January 12, 2024.

Parties are responsible for ensuring that any documents they file with the OEB, such as applicant and intervenor evidence, interrogatories and responses to interrogatories or any other type of document, **do not include personal information** (as that phrase is defined in the *Freedom of Information and Protection of Privacy Act*), unless filed in accordance with rule 9A of the OEB's Rules of Practice and Procedure.

Please quote file number, **EB-2023-0009** for all materials filed and submit them in searchable/unrestricted PDF format with a digital signature through the OEB's online filing portal.

- Filings should clearly state the sender's name, postal address, telephone number and e-mail address.
- Please use the document naming conventions and document submission standards outlined in the Regulatory Electronic Submission System (RESS) Document Guidelines found at the File documents online page on the OEB's website.
- Parties are encouraged to use RESS. Those who have not yet set up an account, or require assistance using the online filing portal can contact registrar@oeb.ca for assistance.
- Cost claims are filed through the OEB's online filing portal. Please visit the File documents online page of the OEB's website for more information. All participants shall download a copy of their submitted cost claim and serve it on all required parties as per the Practice Direction on Cost Awards.

All communications should be directed to the attention of the Registrar and be received by end of business, 4:45 p.m., on the required date.

With respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties must include the Case Manager, Urooj Iqbal at Urooj.Iqbal@oeb.ca, and OEB Counsel, Lawren Murray at Lawren.Murray@oeb.ca.

Email: registrar@oeb.ca
Tel: 1-877-632-2727 (Toll free)

DATED at Toronto, December 12, 2023

ONTARIO ENERGY BOARD

Nancy Marconi

Digitally signed by Nancy Marconi
Date: 2023.12.12 15:42:24 -05'00'

Nancy Marconi
Registrar